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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,241	01/22/2002	John K. Walton	EMC2-078AUS	4075

22494 7590 08/21/2002

DALY, CROWLEY & MOFFORD, LLP
SUITE 101
275 TURNPIKE STREET
CANTON, MA 02021-2310

EXAMINER

ELAMIN, ABDELMONIEM I

ART UNIT	PAPER NUMBER
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2182

DATE MAILED: 08/21/2002

HS

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/054,241

Applicant(s)
Walton et al

Examiner
Abdelmoniem Elamin

Art Unit
2182



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 22, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.
- ### Disposition of Claims
- 4) ☒ Claim(s) 11-47 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Mar 11, 2002 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 6) ☐ Other:

Art Unit: 2182

DETAILED ACTION

Specification

The abstract of the disclosure is objected to because, it exceeds the limit which is 150 words in length. Corrections are required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Abstract limited to a single paragraph on a separate sheet within the range of 50 to 150 words is required.

Art Unit: 2182

Double Patenting

I. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

2. Claims 11-47 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-37 of U.S. Patent No. 6,389,494. Although the conflicting claims are not identical, they are not patentably distinct from each other because they

Art Unit: 2182

recite means or steps that are substantially the same and that would have been obvious to one of ordinary skill in the art.

3. Claims 11, 20-21, 29-30, 39-40 and 44 essentially repeat all the features listed in the US. Pat. 6,389,494, claims 1, 10-11, 19-20, 29-30, and 34. There are some changes:

the recitation throughout the claims of “each one of the directors comprising a central processing unit” which does not appear in the corresponding claims of the US. Pat. 6,389,494.

However, both the concept and the advantages of having the directors comprising a central processing unit is old and well known in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have each one of the directors comprising a central processing unit, because, by using a CPU-driven director, the mode of operation may be flexibly changed under software control, without extensive hardware redesign, in addition, the CPU hardware is standard and quite inexpensive and readily available.

4. Claims 12-19 are identical to the patent claims 2-9.

5. Claims 22-28 are identical to the patent claims 12-18.

6. Claims 31-38 are identical to the patent claims 21-28.

7. Claims 41-43 are identical to the patent claims 31-33.

8. Claims 45-47 are identical to the patent claims 35-37.

Art Unit: 2182

Allowable Subject Matter

9. Claims 11-47 would be allowable if Applicant files a terminal disclaimer thereby overcoming the double patenting rejection.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdelmoniem I. Elamin whose telephone number is (703) 305-3804. The examiner can normally be reached Monday through Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin, can be reached at (703)308-3301.

Any inquiry of a general nature relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)305-3900.

Any response to this action should be mailed to:

Commissioner of Patents and trademarks

Washington, D.C. 20231

Or faxed to:

(703) 746-7239 (Official)

(703) 746-7240 (Non-Official/Draft)

(703) 746-7238 (After-final)

Application/Control Number: 10/054,241

Page 6

Art Unit: 2182

*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington. VA, Forth Floor (receptionist).*

Respectfully Submitted



Abdelmoniem I. Elamin

Art Unit 2182

August 20, 2002